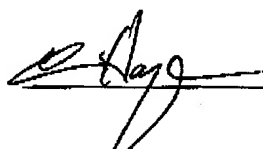


# TRASKBRITT

Intellectual Property Attorneys

Official MS  
4/24/2003

## FACSIMILE TRANSMITTAL SHEET

Total number of pages including cover letter: 7To: **Examiner R. B. Schwadron**  
**U.S. Patent and Trademark Office**Date: **April 24, 2003**Facsimile No.: **(703) 746-5339**Telephone No.: **(703)**From: **Allen C. Turner**Serial No.: **09/668,555**Client/matter number: **2183-4541US**Group Art Unit: **1644**Message/Comments: **Transmitted herewith, per your e-mail of today, is a copy of the Notice of Appeal and reply to the office action mailed October 18, 2002 and Advisory Action mailed February 5, 2003 which was filed March 5, 2003.**Faxed by:  Date: 04/24/03 Time:           *If you do not receive the complete document, please call (801) 532-1922 as soon as possible*

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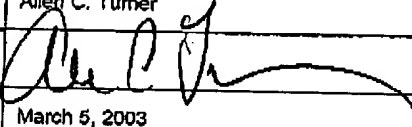
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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/668,555
	Filing Date	September 22, 2000
	First Named Inventor	van Oosterhout et al.
	Group Art Unit	1644
	Examiner Name	R. B. Schwadron
	Attorney Docket Number	2183-4541US

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Postcard receipt acknowledgment (attached to the front of this transmittal) <input checked="" type="checkbox"/> Duplicate copy of this transmittal sheet in the event that additional filing fees are required under 37 C.F.R. § 1.16 <input type="checkbox"/> Preliminary Amendment <input type="checkbox"/> Response to Restriction Requirement/Election of Species Requirement dated <input type="checkbox"/> Amendment in response to office action dated <input type="checkbox"/> Amendment under 37 C.F.R. § 1.116 in response to final office action dated <input type="checkbox"/> Additional claims fee - Check No. in the amount of \$ <input type="checkbox"/> Letter to Chief Draftsman and copy of FIGS. with changes made in red <input type="checkbox"/> Transmittal of Formal Drawings <input type="checkbox"/> Formal Drawings ( sheets)	<input type="checkbox"/> Information Disclosure Statement, PTO/SB/08A (08-00); <input type="checkbox"/> copy of cited references <input type="checkbox"/> Supplemental Information Disclosure Statement; PTO/SB/08A (08-00); copy of cited references and Check No. in the amount of \$180.00 <input type="checkbox"/> Associate Power of Attorney <input type="checkbox"/> Petition for Extension of Time and Check No. in the amount of \$ <input type="checkbox"/> Petition <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Terminal Disclaimer <input checked="" type="checkbox"/> Reply <input checked="" type="checkbox"/> Notice of Appeal <input type="checkbox"/> Appeal Brief <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks The Commissioner is authorized to charge any additional fees required but not submitted with any document or request requiring fee payment under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account 20-1469 during pendency of this application.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Allen C. Turner Registration No. 33,041
Signature	
Date	March 5, 2003

CERTIFICATE OF MAILING	
Express Mail Label Number: <u>EV209822551US</u>	
Date of Deposit: <u>March 5, 2003</u>	
Person Making Deposit: <u>Matthew Wooton</u>	

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*Examiner  
4/24/2003*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

van Oosterhout et al.

Serial No.: 09/668,555

Filed: September 22, 2000

For: METHODS AND MEANS FOR THE  
TREATMENT OF IMMUNE RELATED  
DISEASES

Examiner: Ron Schwadron, Ph.D.

Group Art Unit: 1644

Attorney Docket No.: 4541US

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EV 209822551 US

Date of Deposit with USPS: March 5, 2003

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REPLY

Box AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Office Action mailed October 18, 2002 and Advisory Action mailed February 5, 2003 have been received and reviewed. Claims 1-8, 10-13, 15 and 18-26 are pending in the present application. All stand finally rejected. A notice of appeal is filed simultaneously herewith. Reconsideration is respectfully requested.

As discussed with the Examiner in a telephone conference, applicants are filing this reply in an effort to reduce issues for appeal. In the Advisory Action mailed February 5, 2003, the Examiner refused to enter the amendments presented in the Amendment mailed December 4, 2002 (and received by the Office on December 9, 2002 according to the PAIR system) as assertedly "requiring a new search and new potential rejections over the prior art". Although applicants disagree that new issues were raised, in an effort to reduce issues for appeal, applicants request reconsideration on the following two issues. (See, box 3 of Form PTO-303, Rev. 04-01).

Applicants' representative unsuccessfully tried to resolve these two issues by telephone conference with the Examiner.

1. **35 USC 102(a) & van Oosterhout et al.**

All pending claims were finally rejected as being anticipated by van Oosterhout et al. The earlier declarations of Dr. van Oosterhout and Dr. van Ernst submitted to overcome the rejection ("applicants' own work") were previously rejected for failure to comply with M.P.E.P. § 715.05. Applicants submitted, however, with the December 4, 2002 response to the final Office Action replacement Declarations believed to comply with the requirement. Accordingly, applicants requested that the rejection be withdrawn. As discussed with the Examiner by telephone, the Advisory Action was silent with respect to whether or not the rejection based on van Oosterhout et al. had been overcome by the revised declarations and applicants do not know whether or not to include this issue in the Appeal Brief. Clarification or withdrawal of the rejection is thus requested.

2. **June 11, 2002 Proposed Amendments to the Specification**

The substitute specification submitted with the response of June 11, 2002 was not entered for assertedly failing to include a statement pursuant to Rule 125(b)(1). Applicants have reviewed the June 11, 2002 Amendment and would respectfully point out that on page 2, lines 6-8, of that Amendment the required statement was made, and would accordingly request reconsideration and entry of these amendments to the specification. Clarification or entry of the amendments is thus requested.

3. Extension of Time Fees:

The response to the final Office Action (mailed October 18, 2002) was mailed on December 4, 2002 and received by the Office on December 9, 2002, which is within two months of the mailing of the final Office Action. The Advisory Action, however, was not mailed until February 5, 2003, which was after the end of the three month statutory period. Accordingly, the period of time for responding (and calculating extension fees) was extended to March 5, 2003 (today), and only a one month of extension of time is included herewith. If this should be inaccurate, however, applicants petition for a further extension of time and request that any supporting fee be charged to Deposit Account 20-1469.

Conclusion

In view of this reply, the foregoing issues are believed to be resolved and, hopefully, need not be taken up in the appeal brief. Should the Office believe differently, however, the Examiner is kindly invited to contact applicants' attorney at the telephone number given herein.

Respectfully submitted,



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Date: March 5, 2003